

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

ORIGINAL

In the Matter of )  
Petition for Declaratory Ruling to ) CC Docket No. 98-62  
Declare Unlawful Certain RFP )  
Practices by Ameritech )

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REPLY COMMENTS OF  
MCI TELECOMMUNICATIONS CORPORATION

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MCI Telecommunications Corporation ("MCI") hereby submits its reply comments regarding the above-captioned Petition for Declaratory Ruling filed by Sprint Communications Corporation, L.P. ("Sprint").

The comments filed in response to Sprint's petition confirm MCI's arguments<sup>1</sup> that the RFP and the resulting agreement between Ameritech and Qwest violate the prohibitions against the provision of in-region interLATA services by a BOC as contained in sections 251(g) and 271 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act" or "1996 Act"), and contain specific requirements and provisions that constitute unreasonable and unjust practices, which enable Ameritech to engage in unjust and unreasonable discrimination, in violation of sections 201(b) and 202(a) of the Act.<sup>2</sup>

The commenting BOCs argue that the offering is not prohibited by the Act.<sup>3</sup> With the

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<sup>1</sup> See Comments of MCI Telecommunications Corp., CC Docket No. 98-62 ("MCI Comments") (filed June 4, 1998).

<sup>2</sup> See MCI Comments at 7-15.

<sup>3</sup> See Comments of US West Communications, Inc., CC Docket No. 98-62 ("US West Comments") (filed June 4, 1998); see also Comments of SBC Communications Inc., CC Docket No. 98-62 ("SBC Comments") (filed June 4, 1998); see also Ameritech Motion to Dismiss, CC Docket 98-62 ("Ameritech Motion") (filed June 4, 1998).

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exception of Ameritech, the commenting BOCs, however, raise no new issues that were not addressed in MCI's initial comments. Ameritech, which filed a motion to dismiss in lieu of comments, argues that Sprint's petition should be dismissed on the basis that it is moot following the execution of the Ameritech-Qwest agreement.<sup>4</sup>

Ameritech's contention that the final agreement is so significantly different from the original RFP presents a paradox and raises important questions regarding the legitimacy of Ameritech's RFP process. For example, how does Ameritech expect to solicit accurate bids for services based on its RFPs if the resulting contracts will not resemble the initial solicitations? Further, how can Ameritech's argument that the terms of the arrangement were equally available to all carriers, without any "first mover" advantage, be reconciled with the fact that Ameritech did not advise carriers other than Qwest of the changes to the RFP? Moreover, Ameritech's claim that it was prepared to accommodate multiple IXCs must be questioned in light of its selection of a single IXC with which to enter into an agreement, which it now claims is so unlike

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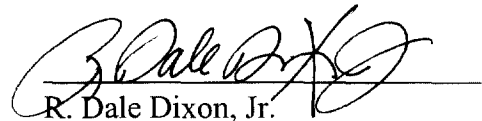
<sup>4</sup> On June 11, 1998, the Commission released a Public Notice ("*Procedures Established for Resolution of Primary Jurisdiction Referrals by the U.S. District Court for the Western District of Washington in AT&T Corp. et al. v. US West Communications, Inc., and by the U.S. District Court for the Northern District of Illinois in AT&T Corp. et al. v. Ameritech Corp.*," DA 98-1109) stating that the resolution of the allegations in the two federal complaints regarding the legality of the offerings by Ameritech and US West would be handled best in the context of formal complaint proceedings before the Commission. Accordingly, MCI joined AT&T in filing two complaints before the Commission against Ameritech and US West. See AT&T Corp. et al. v. Ameritech Corporation, File No. E-98-41 (filed June 15, 1998); see also AT&T Corp. et al. v. US West Communications, Inc., File No. E-98-42 (filed June 17, 1998). MCI believes that the Sprint petition presents important facts and issues regarding the legality of arrangements like the Ameritech-Qwest offering. While the Commission may determine that such offerings are plainly illegal based solely on the resulting agreement between Ameritech and Qwest, the Commission may decide that it needs to refer to the terms and provisions of both the resulting agreement and the initial solicitation in the RFP, in order to determine the scope of the illegality of such offerings.

the original RFP as to render moot any questions concerning the legality of the provisions of that RFP. These are important questions involving the legitimacy of the RFP and RFP process, separate from questions of the legality of the final agreement.<sup>5</sup>

Respectfully submitted,

MCI TELECOMMUNICATIONS  
CORPORATION

By:



R. Dale Dixon, Jr.

Frank W. Krogh

Lisa B. Smith

1801 Pennsylvania Avenue, NW

Washington, D.C. 20006

202-887-2383

Dated: June 19, 1998

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<sup>5</sup> MCI's briefs in the complaint action against Ameritech address fully the reasons why Ameritech's contract with Qwest is unlawful. See AT&T et al. v. Ameritech, File No. E-98-41.

## **CERTIFICATE OF SERVICE**

I, Mellanese Farrington, hereby certify that on this 19th day of June 1998, I served by first-class United States Mail, postage prepaid, a true copy of the foregoing Comments, upon the following:

Chairman William Kennard\*  
Federal Communications Commission  
1919 M Street, NW  
Room 814  
Washington, D.C. 20554

Honorable Michael Powell\*  
Commissioner  
Federal Communications Commission  
1919 M Street, NW  
Room 844  
Washington, D.C. 20554

Honorable Gloria Tristani\*  
Commissioner  
Federal Communications Commission  
1919 M Street, NW  
Room 826  
Washington, D.C. 20554

Honorable Harold Furchtgott-Roth\*  
Commissioner  
Federal Communications Commission  
1919 M Street, NW  
Room 802  
Washington, D.C. 20554

Honorable Susan Ness\*  
Commissioner  
Federal Communications Commission  
1919 M Street, NW  
Room 832  
Washington, D.C. 20554

Carol Matthey\*  
Chief, Policy and Program  
Planning Division  
Federal Communications Commission  
1919 M Street, NW  
Room 544  
Washington, D.C. 20554

Janice M. Myles\*  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW  
Room 539-A  
Washington, D.C. 20554

Sue D. Blumenfeld  
Willkie, Farr & Gallagher  
Counsel for Sprint  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, D.C. 20554

Leon Kastenbaum  
Vice President and General Counsel  
Sprint Communications Company, L.P.  
1850 M Street, N.W.  
Washington, D.C. 20036

Roy E. Hoffinger  
Mark C. Rosenblum  
James H. Bolin, Jr.  
AT&T  
295 North Maple Avenue  
Room 3249J1  
Basking Ridge, NJ 07920

Robert M. Lynch  
Durward D. Dupre  
SBC Communications  
One Bell Plaza, Suite 3703  
Dallas, TX 75202

Patricia L.C. Mahoney  
Counsel for SBC  
140 New Montgomery Street  
Room 1523  
San Francisco, CA 94105  
Dan L. Poole  
John Traylor

US West Communications, Inc.  
1801 California Street, Suite 5100  
Denver, CO 80202

William T. Lake  
Lynn Charytan  
David Gray  
Wilmer, Cutler & Pickering  
2445 M Street, N.W.  
Washington, D.C. 20037

Gary L. Phillips  
Counsel for Ameritech  
1401 H Street, N.W. #1020  
Washington, D.C. 20005

Charles H.N. Kallenbach  
James Falvey  
e.spire Communications, Inc.  
133 National Business Parkway, Suite 100  
Annapolis Junction, Maryland 20701

Andrew D. Lipman  
Richard M. Rindler  
Anne Bottini Beste  
Swidler & Berlin, CHARTERED  
3000 K Street, NW, Suite 300  
Washington, D.C. 20007

Counsel for McLEOD USA, Inc.  
Focal Communication Corp.  
ICG Communications, Inc. and  
KMC Telecom, Inc.

Richard Metzger  
Vice President & General  
Counsel  
ALTS  
888 17th Street, N.W., Suite 900  
Washington, D.C. 20006

\*Denotes Hand-delivery

Charles C. Hunter  
Catherine M. Hannan  
HUNTER COMMUNICATIONS  
LAW GROUP  
1620 I Street, N.W., Suite 701  
Washington, D.C. 20006

Brian Conboy  
Thomas Jones  
WILLKIE FARR & GALLAGHER  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20036

ITS\*  
2100 M Street, NW  
Suite 140  
Washington, D.C. 20037

  
Mellanese Farrington